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CENTRAL BOARD OF REVENUE

NOTIFICATIONS

ESTATE DUTY

New Delhi, the 15th October 1953

S.R.O. 1936.—The following draft of certain rules which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 20 of the Estate Duty Act, 1953 (XXXIV of 1953) is published as required by sub-section (1) of section 85 of the said Act, for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 20th November, 1953.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

DRAFT RULES

1. *Short title & commencement.*—(1) These rules may be called the Estate Duty (Controlled Companies) Rules, 1953.

(2) They shall come into force from the 15th October, 1953.

2. *Definitions.*—In these rules, unless the context otherwise requires—

- (1) "the Act" means the Estate Duty Act, 1953;
- (2) "Assets" includes goodwill;
- (3) "Associated operations" has the same meaning as in clause (iv) of sub-section (7) of section 27 of the Act;
- (4) "Average rate" means, in relation to a company, a rate percent per annum, the percentage being ascertained by—
 - (a) computing the aggregate amount of the net income of the company for the relevant accounting years (a deduction being made, where the company sustained a loss in any of those years, of the amount of the loss);
 - (b) dividing that amount by the number of those years; and
 - (c) comparing the result with the principal value of the assets of the company passing on the death of the deceased by virtue of section 17 of the Act after making the allowances to be made under rule 10 of these rules.

- (5) "Debenture" means, in relation to a company any obligation of the company in respect of any loan capital issued by the company otherwise than as consideration for a loan made to it in the ordinary course of a banking business, or in respect of any debt incurred by the company—
- for any money borrowed by the company, otherwise than by way of temporary loan made in the ordinary course of a banking business;
 - for any transfer of capital assets made to the company by any person, unless the obligation is one resulting from a dealing with a person who transferred such assets to the company in, and on terms consistent with, the ordinary course of a business carried on by him;
 - without consideration, or for consideration the value of which to the company at the time when the debt was incurred was substantially less than the value at that time of the debt (including any premium thereon); or
 - where the debt was of such a nature that it would, in the ordinary course of business and apart from some special arrangement, have carried interest, if the debt did not carry interest or carried interest at a rate which was either unreasonably high or unreasonably low.
- (6) "Disposition" includes any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations, and also, in relation to shares in or debentures of a company, the extinguishment or any alteration of rights attaching thereto, whether effected by a single operation or by associated operations,
- (7) "Distributed assets" means, in relation to a company, assets of the company to which sub-section (3) of section 17 of the Act applies which were disposed of or distributed by the company as mentioned in that sub-section, and "value of the distribution" means, in relation to any distributed assets, the value thereof or, if partial consideration (other than the extinguishment, or an alteration, of rights attaching to shares in or debentures of a company to which that section applies) was given for the distribution in money or money's worth received by the company for its own use and benefit, the value thereof less the value of the consideration given;
- (8) "Dividend" includes any sum which would be treated as dividend for the purposes of the Indian Income-tax Act, 1922;
- (9) "Member" means, in relation to a company, a holder in his own right of any share in or debenture of the company, and a person interested in any share in or debenture of the company held, whether by himself or another, otherwise than in the holder's own right;
- (10) "Payment" includes a transfer of property and a set-off or release of an obligation and references to the amount of a payment include, in relation to property transferred or to an obligation set-off or released, references to the value thereof;
- (11) "Power" includes any right or power exercisable by virtue of the holding of shares in or debentures of a company, and any right or power to procure an issue of shares in or debentures of a company.

3. Interpretation.—(1) For the purposes of these rules—

A person shall be deemed to have received or had any payment, income, enjoyment, assets, or interest, the receipt or having whereof by him is relevant for the purposes of these rules, if any of the following conditions have been satisfied in relation thereto, namely:—

- if the relevant payment or other matter has been applied in any manner for the benefit of that person, or has been dealt with by that or any other person in any manner calculated to cause it to inure for the benefit of that person at any time, whether in the form of income or not, or if any property which was or would be available for the purpose by reason of the effect or successive effects of any one or more of associated operations relating to the relevant payment or other matter has been so applied or dealt with;
- if any advantages received or to be received at any time by that person have been provided out of that payment or other matter, or out of any such property as aforesaid;
- if that person became able in any manner to control the application of the relevant payment or other matter, or of any such property as aforesaid, otherwise than in a fiduciary capacity;

- (d) if the relevant payment or other matter, or any such property as aforesaid, has been applied in any manner so as to increase the value to that person of any property in which he was beneficially interested; or
- (e) as respects such income as is mentioned in sub-rule (1) of rule 5 of these rules if the receipt by, or accrual to, the company of that income operated in any manner so as to increase the value to that person of any property in which that person was beneficially interested, so however that the amount of the income which that person is to be treated as having received by virtue of this paragraph shall be limited to the amount of the increase in value of the property in question;

and references in these rules to the deceased's receiving or having, or being or becoming entitled to receive or have, any such payment or other matter as aforesaid shall be construed accordingly.

(2) References in these rules to a disposition's being made by any person, to a power's being exercised or exercisable by any person, or to any other act's being done by any person, include references to its being made, or being exercised or exercisable, or being done, by him and another jointly or by another at his direction or by a company of which he had control within the meaning of sub-rule (3) of rule 15 of these rules whether with or without the consent of any other person; references importing an omission on the part of any person in relation to any such matter as aforesaid shall be construed in like manner; and references in relation to any such matter as aforesaid to its being made, or being exercised or exercisable, or being done or omitted, with the consent of any person include references to its being made, or being exercised or exercisable, or being done or omitted, at his request or with or subject to his acquiescence.

(3) References in these rules to a person having any power or control or doing any act in a fiduciary capacity shall be construed as references to his having that power or control or doing that act in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only.

4. *Dispositions or operations deemed to be transfers.*—A person shall be deemed for the purposes of section 17 of the Act, to have made a transfer of property to a company if the property came to be included in the resources of the company by the effect of a disposition made by him or with his consent or of any associated operations of which such a disposition formed one.

5. *Benefits accruing to deceased from company.*—(1) The following shall be treated as benefits accruing to the deceased from the company, that is to say:—

- (a) any income of the company, and any periodical payment out of the resources or at the expense of the company, which the deceased received for his own benefit whether directly or indirectly, and any enjoyment *in specie* of land or other property of the company or of a right thereover which the deceased had for his own benefit whether directly or indirectly;
- (b) any such income or payment or enjoyment which the deceased was entitled to receive or have as aforesaid; and
- (c) any such income or payment or enjoyment which the deceased could have become entitled to receive or have as aforesaid by an exercise in the three years ending with his death of any power exercisable by him or with his consent;

and where the deceased could, by an exercise in the said three years of any such power as aforesaid, have become entitled to receive as aforesaid any payment out of the resources or at the expense of the company not being a periodical payment, but did not in fact receive or become entitled to receive that payment, there shall be treated as a benefit accruing to the deceased from the company interest on that payment at the average rate from the earliest date on which he could have become entitled to receive it.

(2) For the purposes of these rules, the expression "periodical payment" means a payment by way of dividend or interest, a payment by way of remuneration not being a single lump-sum payment, and any other payment being one of a series of payments, whether interconnected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise.

6. *Surrender of title to or of power to obtain benefits.*—(1) Subject to the provisions of sub-rule (3) of this rule if the deceased has made, whether for value or not, a surrender of his title to receive any such income or payment or

enjoyment as is mentioned in the last preceding rule, or of any such power as is therein mentioned, the last preceding rule shall have effect as if the surrender had not been made.

(2) The deceased shall be deemed to have made such a surrender as aforesaid, if a right which he had to receive any such income or payment or enjoyment as aforesaid, or if any such power as aforesaid, has been extinguished or suspended by the effect solely or partly of any disposition made by him or with his consent of shares in or debentures of a company or of any other property or right, or of the exercise or the leaving unexercised by him or with his consent of any power or right, or of the extinguishment or suspension by him or with his consent of any power or right, otherwise than in a fiduciary capacity, or if apart from such a disposition or other act or omission he would have become entitled to receive any such income or payment or enjoyment as aforesaid but by the effect solely or partly thereof, he did not become entitled to receive it.

(3) This rule shall not apply to a surrender made *bona fide* before the beginning of the two years ending with the death of the deceased (or if it was made for public charitable purposes, before the beginning of the six months ending with his death), if the deceased was at all times during those two years or during those six months, as the case may be, entirely excluded from receiving, or being entitled to receive, or having any capacity by an exercise of any power exercisable by him or with his consent to receive, any periodical payment by virtue of the surrender or of any associated operations of which the surrender was one.

7. *Determination of the amount of benefits.*—(1) The provisions of this rule shall have effect for the purpose of determining the amounts to be taken into account, for the purposes of sub-section (2) of section 17 of the Act, as the amounts of benefits accruing to the deceased from the company.

(2) No amount shall be taken into account more than once.

(3) Where an amount is taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, due regard shall be had to the effect that his receiving the benefit, or the power's being exercised, would have had in relation to other benefits.

(4) The amounts that are to be taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, shall be such as would have fallen to be taken into account as benefits received by the deceased if he had acted in relation to the claiming of benefits and the exercise of powers during the three years ending with his death to his greatest financial advantage, due regard being had to any consideration which he would have had to give in respect of a claim to any benefit or the exercise of any power.

(5) In making for the purposes of the last preceding sub-rule a computation of any diminution of income which the deceased would have sustained by giving any such consideration as is therein mentioned, or of any increase of income which the company would have obtained from any such consideration to be given to the company, it shall be assumed that the consideration would have yielded income equal to interest at the average rate on the amount or value thereof.

(6) The amounts to be taken into account shall include any income-tax or super-tax which the deceased paid or bore in respect of the benefits in question.

(7) The amount to be taken into account in respect of a benefit consisting of any enjoyment *in specie* of land or other property of the company or of a right thereover shall be the value of the enjoyment thereof for the period during which the benefit subsisted.

8. *Time of accrual of benefits.*—(1) The provisions of this rule shall have effect for the purpose of determining—

(a) whether a benefit accruing to the deceased from the company is to be treated as having accrued to him during the three years ending with his death, or during a particular accounting year, or at any other relevant time, and

(b) the period during which a benefit consisting of any enjoyment *in specie* of land or other property of the company or of a right thereover is to be treated as having subsisted.

(2) A benefit consisting of income of the company or a periodical payment which the deceased received, or became entitled to (but did not in fact) receive, shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof.

(3) A benefit consisting of income of the company or a periodical payment which the deceased could have become entitled to receive by an exercise in the three years ending with his death of a power which was not in fact exercised or was surrendered shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof if he had acted as mentioned in sub-rule (4) of the last preceding rule.

(4) A benefit consisting of interest on such a payment other than a periodical payment as is mentioned in rule 5 which the deceased could have become entitled to receive shall be treated as having accrued to him in any accounting year, to the extent to which the period during which the interest is to be treated as accruing fell within that year.

(5) A benefit consisting of any such enjoyment *in specie* as aforesaid shall be treated as having accrued to the deceased in the said three years if any part of the period during which it subsisted fell within those years, and shall be treated as having accrued to him in any accounting year to the extent to which the period during which it subsisted fell within that year.

(6) A benefit consisting of any such enjoyment *in specie* as aforesaid shall be treated as having subsisted during the following period, that is to say:—

(a) in the case of enjoyment that the deceased had, during the period for which he had it;

(b) in the case of enjoyment which he became entitled to (but did not in fact) have, during the period for which he could have had it;

(c) in the case of enjoyment which he could have become entitled to have by an exercise in the three years ending with the death of a power which was not in fact exercised or was surrendered, during the period for which he could have had it if he had acted as mentioned in sub-rule (4) of rule 7.

9. *Determination of net income or loss of company.*—(1) The income of the company for any accounting year, or for the period between the end of the last accounting year and the death of the deceased, shall, subject to sub-rules (2) and (3) of this rule, be determined by computing the aggregate income of the company from its various sources in accordance with the provisions of the Indian Income-tax Act, 1922, except for agricultural income which shall be computed separately according to sub-rule (4), provided that there shall be excluded from the computation of the income of the company any income thereof which was neither *bona fide* earned in the ordinary course of business nor the produce of income yielding assets held by it.

(2) The computation shall always be made by reference to the income for that year or period and not by reference to the income of any other period, notwithstanding anything in the Indian Income-tax Act, 1922, to the contrary.

(3) In making the computation, no deduction from the income of the company shall be made in respect of:—

(a) the amount of any loss sustained before the beginning of that year or period, which is admissible under the provisions of sub-section (2) of section 24 of the Income-tax Act, 1922;

(b) the amount of any deduction admissible on account of depreciation under proviso (b) of clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922; or

(c) any dividend on shares of or interest on debentures in the company and liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively.

(4) The agricultural income of a company shall be computed in the manner provided in sub-section (2) of section 12 of the Indian Income-tax Act, 1922.

(5) There shall be deducted in arriving at the amount of the income any annual charge or interest not being interest on debentures, which would have been deducted irrespective of whether tax were recovered from it or not.

(6) Sub-rules (1), (2) and (3) shall apply with the necessary adaptations, to the determination of any loss sustained by a company as they apply to the determination of the net income of a company.

10. *Determination of value of assets of company.*—(1) In determining the value of the estate for the purpose of estate duty, the provisions of section 44 of the Act as to making allowance for debts and incumbrances shall not have effect as respects any debt or incumbrance to which assets of the company passing on the death by virtue of section 17 of the Act were liable, but the Controller shall make an allowance from the principal value of those assets for all liabilities of the company (computed, as regards liabilities which have not matured at the date of the death, by reference to the value thereof at that date, and, as regards contingent liabilities, by reference to such estimation as appears to the Controller to be reasonable) other than—

- (a) liabilities in respect of shares in or debentures of the company; and
- (b) liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively.

(2) In estimating the principal value of the said assets the Controller shall fix the price thereof on the basis of a sale of the business of the company as a going concern.

(3) Where the said assets include any distributed assets, if partial consideration (other than the extinguishment, or an alteration, of rights attaching to shares in or debentures of a company to which section 17 of the Act applies) was given for the distribution in money or money's worth received by the company for its own use and benefit, a further allowance shall be made, in addition to the allowances specified in sub-rule (1) of this rule, of an amount equal to the value of the consideration given.

(4) For the purpose of the estimation of the principal value of any distributed assets section 36 of the Act shall have effect with the substitution for the reference therein to the time of the death of the deceased of a reference to the time of the distribution, and effect shall be given to the proviso to the said section 36 (which relates to depreciation by reason of the death of the deceased) as at the time of the distribution only, due regard being had to the expectation of life of the deceased at that time.

11. *Limitation on and prevention of duplication of charge.*—(1) If it is shown to satisfaction of the Controller that—

- (a) the value of all such property as is mentioned in sub-section (1) of section 17 of the Act of which the deceased made a transfer to the company, together with an amount equal to any excess of interest at the average rate on the value thereof from the date or respective dates of transfer to the death of the deceased over the aggregate amount of the benefits received by the deceased by virtue of the transfer, is less than—
- (b) the value on which estate duty would be chargeable on the death under the said section if all benefits accruing to him from the company other than the benefits received by him by virtue of the transfer were disregarded,

an amount equal to the deficiency shall be deducted from the proportion of the value of the company's assets that corresponds to the benefits received by him by virtue of the transfer.

References in this sub-rule to benefits received by the deceased by virtue of a transfer shall be construed as references to benefits accruing to him from the company which he received or had as consideration for the transfer, or in consequence of his having received as consideration therefor shares or debentures or other property which produced any of those benefits.

(2) Where the following conditions are satisfied, that is to say, that the deceased has, within three years before his death, disposed of any shares in or debentures of the company for consideration in money or money's worth paid to him for his own use or benefit, and that any benefits accrued to the deceased from the company by virtue of those shares or debentures or by virtue of a

power's having been exercisable by him or with his consent in relation to those shares or debentures, then—

- (a) if the value of the said consideration is equal to or greater than the proportion of the value of the company's assets that corresponds to the benefit that so accrued to him, or if the Controller is satisfied that the said proportion would not, if fully ascertained, be found to be substantially in excess of the value of the said consideration, duty on the said proportion shall not be payable;
- (b) in any other case, the amount on which duty is to be charged in respect of the said proportion shall be reduced by the amount of the value of the said consideration;

Provided that, in the case of any shares or debentures—

- (i) this sub-rule shall not apply where estate duty is payable on the death on their value or any part thereof or would be so payable but for an exemption from estate duty; and
- (ii) for the purpose of determining to what extent, if any, the disposition of them satisfies the conditions, of this sub-rule, rule 16 of these Rules (which relates to transaction through the medium of a company) shall apply as it applies for the purposes of section 26 of the Act.

(3) Where the following conditions are satisfied, that is to say, that any benefits accrued to the deceased from the company by virtue of any interest that he at any time had in shares in or debentures of the company, or by virtue of a power's having at any time been exercisable by him or with his consent in relation to shares in or debentures of the company, and apart from this sub-rule estate duty would be payable on the death both on the value of those shares or debentures by virtue of any provisions other than section 17 of the Act, and on the proportion of the value of the company's assets that corresponds to the benefits that so accrued to him by virtue of that section then—

- (a) if the value of the shares or debentures is equal to or greater than, the said proportion, or if the Controller is satisfied that the said proportion would not, if fully ascertained, be found to be substantially in excess of the value of the shares or debentures, duty on the said proportion shall not be payable;
- (b) in any other case, the amount on which duty is to be charged in respect of the said proportion shall be reduced by the amount of the value of the shares or debentures.

(4) Where the conditions set out in the last preceding sub-rule would be satisfied but for the fact that, by reason of an exemption from estate duty (not being an exemption on the ground that the deceased or other person having an interest in the shares or debentures ceasing on the death of the deceased had only an interest as the holder of an office) estate duty is not payable on the value of the shares or debentures, paragraphs (a) and (b) of that sub-rule shall apply as if that exemption did not operate and as if the duty had been payable on the value of the shares and debentures accordingly:

Provided that where—

- (a) the exemption in question depends on a payment of any duty on an earlier death, or does not depend on such a payment but depends wholly or partly on any dispositions having been made; and
- (b) since the date of that death or disposition, as the case may be, the shares or debentures have been substantially increased in value by reason of a transfer or property to any company by any person or by any reason of the extinguishment of, or any alteration of the rights attaching to, shares in or debentures of any company,

then, unless the exemption takes the form of a deduction from the value of the shares or debentures of a fixed amount which is independent of the value of the shares or debentures, the references in paragraphs (a) and (b) of the last preceding sub-rule to the value of the shares or debentures therein mentioned shall have effect as if they were references to the value thereof reduced to the extent to which, in the opinion of the Controller, that value is attributable to the transfer, extinguishment or alteration.

(5) Where, by reason of an exemption from estate duty, that duty is payable on part only of the value of the shares or debentures, sub-rule (3) of this rule shall, with the necessary adaptations, be applied to the part of the value of the

shares or debentures on which duty is payable and sub-rule (4) of this rule shall be applied to the part of the value of the shares or debentures affected by the exemption; and, where there are two or more exemptions from estate duty each of which operates on part only of the value of the shares or debentures and the exemptions are such that the said sub-rule (4) would operate differently in relation to them, then, whether or not there is any part of the value of the shares or debentures on which estate duty is payable, the said sub-rule (4) shall, with the necessary adaptations, be applied separately in relation to the parts of the value of the shares or debentures affected by each exemption.

(6) In this rule the expression "exemption from estate duty" includes any exemption conferred by any provision of the Act which has the effect of exempting property, in whole or in part, from the duty, whether that provision takes the form that the property is not to be deemed to pass, or the form that a deduction is to be made from the value of the property, or any other form; and the reference in paragraph (b) of the proviso to sub-rule (4) of this rule to an increase in the value of shares or debentures includes, where those shares or debentures have been acquired in substitution for any other property, any increase in the value of any property which those shares or debentures directly or indirectly represent.

(7) References in this rule to the proportion of the value of the company's assets that corresponds to any particular benefits shall be construed as references to so much of the value on which estate duty is chargeable on the death by virtue of section 17 of the Act as is chargeable by reason of the bringing of those benefits into the computation made under sub-section (2) of that section.

(8) So much of any income or periodical payment or enjoyment of a kind mentioned in rule 3 of these rules as is shown to the satisfaction of the Controller to have represented, or to have been such that it would if received have represented, reasonable remuneration to the deceased for any services rendered by him as the holder of an office under the company shall, notwithstanding anything in that rule not be treated for the purposes of these rules as a benefit accruing to the deceased from the company; and any liability of the company in respect of the remuneration of any person as the holder of an office under the company shall be treated for the purposes of these rules as incurred for the purposes of the business of the company wholly and exclusively to the extent to which it is shown to the satisfaction of the Controller that the amount thereof was reasonable and to that extent only.

(9) For the purposes of sub-rule (3) of this rule where the benefits that accrued to the deceased from the company in the relevant accounting years included benefits that accrued to him otherwise than as mentioned in that sub-rule but the deceased had at any time an interest in, or a power was at any time exercisable in relation to, shares in or debentures of the company in respect of which estate duty would be payable on his death apart from anything in that sub-rule and by virtue of that interest or power benefits accrued to the deceased from the company in those years, or would so have accrued to him if any payments had been made by virtue of rights attached to those shares or debentures, then—

- (a) if the first mentioned benefits consisted to any extent of payments made out of moneys which, if not so applied, could have been applied in increasing the last mentioned benefits, or as payments which would have constituted such benefits; or
- (b) if the first mentioned benefits are brought into the computation made under sub-section (2) of section 17 of the Act to the exclusion to any extent of the last mentioned benefits;

the first mentioned benefits shall to that extent be treated as if they had accrued to, the deceased by virtue of his interest in, or of the power exercisable in relation to, the said shares or debentures.

12. *Adjustments as to distributed assets.*—(1) Where the assets of the company passing on the death of the deceased by virtue of section 17 of the Act include any distributed assets, or by reason of the company's having been wound up or dissolved before the death, consist of distributed assets, the following provisions of this rule shall have effect.

(2) The net income of the company shall be determined as if the income of the company had included, or the company had had income equal to, interest on a sum equal to the value of each distribution at the average rate from the date thereof.

(3) If on any distribution the deceased received beneficially an interest in any of the distributed assets, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of the company under the last preceding sub-rule by reference to the value of the distribution of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or, where the interest in those assets which the deceased received was less than an absolute interest, had been such income to an extent corresponding to the proportion which the value of the interest in those assets received by him bore to the value of those assets.

(4) Where sub-rule (3) of this rule has effect:—

(a) the value on which, apart from this provision, estate duty would be payable on the death of the deceased by virtue of section 17 of the Act shall be reduced by an amount equal to the value of the distribution of the assets in question, or, where the interest in those assets which the deceased received was less than an absolute interest, by an amount equal to the proportion aforesaid of that value; and

(b) any amount which is treated as a benefit accruing to the deceased from the company by virtue of that sub-rule shall be treated for the purposes of sub-rule (1) of rule 11 of these Rules, as a benefit received by him.

13. *Adjustments as to additions to assets.*—(1) Where the principal value of the assets of the company passing on the death of the deceased by virtue of section 17 of the Act is increased by reason of an addition's having been made to the assets of the company, otherwise than by way of receipts representing income in respect of which the company was liable to pay or bear income-tax or super-tax between the beginning of the first of the relevant accounting years and the death of the deceased, either:—

(a) in consideration of an issue of shares in or debentures of the company, or

(b) otherwise, howsoever, except by way of purchase for full consideration in money or money's worth given by the company,

the following provisions of this rule shall have effect in relation to the added assets.

(2) The net income of the company shall be determined as if the income of the company had included interest on a sum equal to the value of the addition at the average rate from the beginning of the first of the relevant accounting years to the date of the addition.

(3) If a transfer of any of the added assets or of any interest in any of them was made to the company by the deceased, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of the company under the last preceding sub-rule by reference to the value of the addition of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or had been such income to an extent corresponding to the proportion which the value of the interest transferred bore to the value of those assets, as the case may be.

(4) Where sub-rule (3) of this rule has effect, if the deceased received as consideration for the addition of the assets in question an interest in any shares in or debentures of the company in respect of which estate duty would be payable on his death apart from anything in sub-rule (3) of rule 11 of these Rules any amount which is treated as a benefit accruing to him from the company by virtue of that sub-rule shall be treated for the purposes of the said sub-rule (3) as a benefit accruing to him by virtue of his interest in those shares or debentures.

(5) In this rule the expression "value of the addition" means, in relation to any added assets, the value thereof or, if partial consideration (other than an issue of, or an alteration of rights attaching to, shares in or debentures of the company) was given therefor in money or money's worth out of the resources or at the expense of the company, the value thereof less the value of the consideration given.

14. *Accounting year.*—(1) The expression "accounting year" means if the company has, before the death of the deceased, made up accounts for a period of twelve months ending in the last year of his life, that period and each previous

period of twelve months or other period ending on the date corresponding to that to which the accounts were made up, or, if not, a period of twelve months or other period ending on such date in the last year of his life as the Controller may determine and each previous period of twelve months or other period ending on the date corresponding to the date determined.

(2) The expression "relevant accounting years" means the accounting years by reference to which the extent of the passing of the assets of the company is to be determined under section 17 of the Act.

(3) Where an accounting year does not coincide with a period for which accounts of the company were made up, the Controller may, for the purpose of determining the net income of the company for that accounting year, divide any such period and make such apportionments and aggregations of the income of the company as may be necessary, so, however, that any apportionments so made shall be made in proportion to the number of months or fractions of months in the respective periods for which the apportionment is made.

15. Valuation for estate duty of shares and debentures of certain companies.—

(1) Where for the purposes of estate duty there pass, on the death of a person, shares in or debentures of a controlled company then if—

- (a) the deceased had the control of the company at any time during the three years ending with his death; or
- (b) dividends which were declared by the company for any period falling wholly or partly within these three years, or which, not having been declared for any particular period, were declared at a time within those three years together with any amounts which accrued due during any period falling wholly or partly within those three years for interest on debentures of the company, are, as to amounts forming in the aggregate more than one-half of the total amount of such dividends and interest to be treated by virtue of any of the provisions of rules 5 and 6 of these Rules as benefits accruing to the deceased from the company, or would have fallen to be so treated if the deceased had made a transfer of property to the company; or
- (c) the deceased had at any time during those three years a beneficial interest in possession in shares in or debentures of the company, or in both, of an aggregate nominal amount representing one-half or more of the aggregate nominal amount of the shares in and debentures of the company then issued and outstanding, and no one other person had at that time the control of the company;

the principal value of the shares or debentures, in lieu of being estimated in accordance with the provisions of sub-section (1) of section 36 of the Act shall be estimated by reference to the net value of the assets of the company in accordance with the provisions of the next succeeding sub-rule.

(2) For the purposes of such ascertainment as aforesaid:—

- (a) the net value of the assets of the company shall be taken to be the principal value thereof estimated in accordance with sub-section (1) of section 36 of the Act less the like allowance for liabilities of the company as is provided by sub-rule (1) of rule 10 of these Rules in relation to the assets of a company passing on a death by virtue of section 17 of the Act but subject to the modification that allowance shall be made for such a liability as is mentioned in paragraph (b) of that sub-rule unless it also falls within paragraph (a) thereof;
- (b) the aggregate value of all the shares and debentures of the company issued and outstanding at the death of the deceased shall be taken to be the same as the net value of the assets of the company;
- (c) in a case in which there are both shares in and debentures of the company issued and outstanding at the death, or different classes of either, the net value of the assets of the company shall be apportioned between them with due regard to the rights attaching thereto respectively; and
- (d) the value of any share, or of any debenture, or of a share or debenture of any class, shall be a rateable proportion, ascertained by reference to nominal amount, of the net value of the assets of the company as determined under paragraph (a) of this sub-rule or, in the case

mentioned in paragraph (c) of this sub-rule of the part thereof apportioned under that paragraph to the shares of the company, or to its debentures, or to that class thereof, as the case may be.

(3) For the purposes of this rule a person shall be deemed to have had control of a company at any time if he then had—

- (a) the control of powers of voting on all questions or on any particular question, affecting the company as a whole which if exercised would have yielded a majority of the votes capable of being exercised thereon; or
- (b) the capacity to exercise, or to control the exercise, of any of the following powers that is to say, the powers of a board of directors or of a governing director of the company, power to nominate a majority of directors or a governing director thereof, power to veto the appointment of a director thereof, or powers of a like nature;

or if he could have obtained such control or capacity by an exercise at that time of a power exercisable by him or with his consent.

(4) This rule shall not apply to the valuation of shares or debentures of a class as to which permission to deal has been granted by a recognised stock exchange and dealings in the ordinary course of business on that stock exchange have been recorded during the year ending with the death of the deceased, and, in making an apportionment under paragraph (c) of sub-rule (2) of this rule in the case of a company having shares or debentures of such a class, the part of the value of the assets of the company to be apportioned to shares or debentures of that class shall be determined by reference to the prices recorded on such dealings.

(5) Control of a company which a person had in a fiduciary capacity shall be disregarded for the purposes of this rule.

(6) In this rule references to the assets of a company shall be construed as references to the assets that it had at the death of the deceased.

16. Limitation of exceptions for consideration, and for exclusion of deceased, where company concerned.—(1) For the purposes of section 26 of the Act (which relates to exceptions for transactions for money consideration), if a controlled company was concerned in a transaction in relation to which it is claimed that the provisions of that section have effect, or in any one or more of associated operations of which that transaction formed one, those provisions shall have effect in relation thereto if and only, if, and to the extent only to which, the Controller is satisfied that those provisions would have had effect in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred and if the company had acted in the capacity of a trustee only with power to carry on the business of the company and to employ the assets of the company therein.

(2) Where a controlled company was concerned in the disposition or determination of an interest limited to cease on a death effected or suffered as mentioned in sub-section (2) of section 11 of the Act, or in a surrender made as mentioned in sub-rule (3) of rule 6 of these Rules or was concerned in any one or more of associated operations of which the disposition or determination or surrender formed one, the conditions as to the entire exclusion of the person who had the interest or of the deceased, and of any benefit to him, specified in the said sub-section (2) or in the said sub-rule (3) as the case may be, shall be treated as having been satisfied if and only if they would have been so treated in the circumstances aforesaid.

17. What is Investment Company.—For the purpose of clause (iv) of sub-section (4) of section 17 of the Act a company is an investment company if its income is derived mainly from investments in stocks, shares, bonds and debentures, that is to say, the income is of a nature which, if the company were an individual, would not be earned income as defined in clause (6AA) of section 2 of Indian Income-tax Act, 1922, provided that any income apportioned to the company under section 23A of the Indian Income-tax Act, 1922, shall be deemed to be income of the company and to be its income from investment.

[No. 2-ED.]

R. K. DAS,

Secretary, Central Board of Revenue.

S.R.O. 1937.—The following draft of certain rules which the Central Board of Revenue proposes to make in exercise of the powers conferred by section 85 of the Estate Duty Act, 1953 (XXXIV of 1953) is published as required by sub-section (1) of that section for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 20th November, 1953.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

DRAFT RULES

1. *Short title and commencement.*—(1) These rules may be called the Estate Duty Rules, 1953.

(2) They shall come into force from the 15th October, 1953.

PART I—PRELIMINARY

2. *Definitions and Interpretation.*—In these Rules unless the context otherwise requires—

- (a) "the Act" means the Estate Duty Act, 1953.
- (b) "accountable person" means any person accountable for the delivery of an account or payment of duty under the provisions of the Act.
- (c) "duty" means estate duty leviable under the Act.
- (d) "Income-tax Act" means the Indian Income-tax Act, 1922 (XI of 1922).
- (e) "India" means the territories of India excluding the State of Jammu and Kashmir.

PART II—JURISDICTION OF CONTROLLERS

[Section 4(2)]

3. The officers for the time being exercising the functions of
- (i) the Commissioner of Income-tax,
 - (ii) the Inspecting Assistant Commissioner of Income-tax, and
 - (iii) the Income-tax Officer,

under the Income-tax Act shall be Controllers of Estate Duty. Deputy Controllers of Estate Duty and Assistant Controllers of Estate Duty (hereinafter in these rules referred to respectively as the Controller, Deputy Controller and the Assistant Controller) under the Act and shall, subject to rules 4 to 6, exercise the powers conferred on the Controller by the Act.

4. (1) Save as otherwise provided in these rules—

- (i) every Assistant Controller, who is Income-tax Officer of Class II Service, shall exercise the functions of a Controller in respect of the estate of a deceased person where the principal value of the estate, as ascertained under the Act, does not exceed rupees one and a half lakh, if in respect of the assessment under the Income-tax Act of the deceased immediately before his death, he was exercising or would have exercised, had the deceased derived any taxable income, the functions of the Income-tax Officer under the Income-tax Act, or if the case of the deceased, whether before or after his death, is transferred to him for the purposes of assessment under the Income-tax Act;
- (ii) every Assistant Controller, who is Income-tax Officer of Class I Service, shall exercise the functions of a Controller in respect of the estate of a deceased person where the principal value of the estate, as ascertained under the Act, does not exceed rupees five lakhs, if in respect of the assessment under the Income-tax Act of the deceased immediately before his death, he was exercising or would have exercised, had the deceased derived any taxable income, the functions of the Income-tax Officer under the Income-tax Act, or if the case of the deceased, whether before or after his death, is transferred to him for the purposes of assessment under the Income-tax Act;
- (iii) every Deputy Controller shall exercise the functions of a Controller in respect of the estate of a deceased person where the principal value of the estate, as ascertained under the Act, exceeds rupees five lakhs but does not exceed rupees ten lakhs, if, in respect of the assessment

under the Income-tax Act of the deceased immediately before his death, he was exercising or would have exercised, had the deceased derived any taxable income, the functions of the Inspecting Assistant Commissioner under the Income-tax Act, but if in respect of the case of the deceased he is or was himself exercising the functions of the Income-tax Officer under the Income-tax Act, he shall exercise the functions of the Controller, even if the principal value of the estate does not exceed rupees five lakhs;

- (iv) every Controller shall exercise his functions in respect of the estate of a deceased person where the principal value of the estate, as ascertained under the Act, exceeds rupees ten lakhs, if, in respect of the assessment under the Income-tax Act of the deceased immediately before his death, he was exercising or would have exercised, had the deceased derived any taxable income, the functions of the Commissioner under the Income-tax Act.

(2) (i) Where an Assistant Controller who is Income-tax Officer of Class II Service, finds that the principal value of the estate exceeds rupees one and a half lakh, he shall transfer the case to the Assistant Controller who is Income-tax Officer of Class I Service, if there be one in the same station, and if there be no such Assistant Controller in the same station, he shall transfer the case to such Assistant Controller in the nearest station (within the jurisdiction of the Deputy Controller to whom the case would have been transferred under clause (ii) of this sub-rule).

(ii) Where an Assistant Controller finds that the principal value of the estate exceeds rupees five lakhs, he shall transfer the case to the Deputy Controller having jurisdiction under clause (iii) of sub-rule (1).

(iii) Where a Deputy Controller finds that the principal value of the estate exceeds rupees ten lakhs he shall transfer the case to the Controller having jurisdiction under clause (iv) of sub-rule (1).

(3) (a) The Controller, the Deputy Controller or the Assistant Controller (who is Income-tax Officer of Class I Service) to whom the case of an estate has been transferred, shall take up the proceedings from the stage at which they stood immediately before such transfer, unless in his opinion a reconsideration of the proceedings taken before such transfer is necessary, and in any such case, he shall give the person accountable a reasonable opportunity of being heard.

(b) The aforesaid Controller, Deputy Controller, and the Assistant Controller, as the case may be, shall, after giving a hearing or re-hearing to the person accountable, if so demanded by that person, assess the duty payable.

(4) Where any proceeding under the Act has been commenced by an Assistant Controller, a Deputy Controller or a Controller, his jurisdiction in respect of such proceeding shall not be called into question by reason only of the fact that the principal value of the estate as finally ascertained, happens to be more or less than the value specified in clauses (1) to (iv) of sub-rule (1).

5. Nothing in rule 4 shall be deemed to prevent an Assistant Controller, a Deputy Controller or a Controller who is not exercising the functions of the Income-tax Officer, the Inspecting Assistant Commissioner or the Commissioner, as the case may be, in respect of the assessment under the Income-tax Act of a deceased person, from exercising the functions of the Controller in respect of the estate of the deceased if the case relating to the estate is specifically assigned to him under the second proviso to sub-section (2) of section 4 of the Act.

6. (1) The Board may, at any stage of the proceedings relating to a case, transfer it from one Controller to another, and thereupon the provisions of sub-rule (3) of rule 4 shall, so far as may be, apply.

(2) Whenever a Controller ceases to exercise jurisdiction in respect of any proceeding under the Act and is succeeded by another Controller, who has and who exercises such jurisdiction, the Controller so succeeding may continue the proceeding from the stage at which it was left by his predecessor:

Provided that the person accountable may, when the succeeding Controller commences to exercise jurisdiction, demand that the previous proceeding or any part thereof taken before his predecessor be re-commenced or that before any order imposing the duty is passed, he be re-heard.

7. It shall be sufficient if the account required to be delivered in pursuance of the provisions of section 53 by a person accountable for estate duty, is delivered by him to the Assistant Controller, the Deputy Controller or the Controller, having jurisdiction under rule 4 or 5, as the case may be, in respect of the estate concerned.

8. A company or person under an obligation to give information to the Controller by virtue of sub-section (2) of section 18, or a company required to furnish particulars to the Controller by virtue of sub-section (1) of section 84 shall be deemed to have complied with the provisions of sub-section (2) of section 18 or of said sub-section (1) of section 84, as the case may be, if the information or particulars are furnished to the Assistant Controller or Deputy Controller who is exercising the functions of the Income-tax Officer in the case of the company.

PART III—DETERMINATION OF NATURE AND LOCALITY OF ASSETS

[Sec. 21(2)]

9. *Determination of nature of property.*—The nature of assets which for the purpose of estate duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Immovable property includes land, water covering the land, buildings, rights to ways, lights, ferries or fisheries or any other benefit to arise out of land (other than the forms of benefit for which specific provision is made in these rules) and things attached to the earth or permanently fastened to anything which is attached to the earth, but does not include standing, growing trees, crops and grass.

Explanation.—Attached to the earth means—

- (i) rooted in the earth, as in the case of trees and shrubs;
- (ii) imbedded in the earth, as in the case of walls or buildings; or
- (iii) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

(b) The interest of a mortgagee in immovable property other than a mortgagee who is entitled to possession of the property under the terms of the mortgage and is actually in possession of the property, is movable property.

(c) The share of a partner in a partnership shall be treated as an indivisible asset for the purpose of determination of its nature and locality. The share of a partner in a partnership is movable property, notwithstanding that the firm owns immovable property.

(d) The share or other interest of any member in a company is movable property, notwithstanding that the company owns immovable property.

(e) A debt or periodical payment secured by a charge on immovable property is movable property.

(f) The interest of a beneficiary in an unadministered estate is movable property.

(g) Movable property shall mean property of every description except property which is immovable under these rules.

10. *Location of movable property.*—The locality of movable assets which for the purpose of estate duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is situated.

(b) Rights or interests (otherwise than by way of security) in or over tangible movable property, other than such property for which specific provision is made herein and in or over bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are situated at the time of death, or, if *in transitu*, at the place of destination;

(c) Debts, secured or unsecured and whether under seal or not, excluding the forms of indebtedness for which specific provision is made in this rule, shall be deemed to be situated at the place where the debtor was resident at the time of death; provided that if the interest on such debt would be chargeable to income-tax under the Income-tax Act, it shall be deemed to be situated in India;

(d) Bank accounts shall be deemed to be situated at the branch at which the account was kept;

(e) Securities issued by any government, municipality or local authority shall be deemed, if in bearer form, to be situated at the place where they are situated at the time of death; and, if inscribed or registered, to be situated at the place of inscription or registration;

(f) Shares, stock, debentures or debenture stock in a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company was incorporated; except shares in a company liable to estate duty by virtue of sub-section (1) of section 84 of the Act;

(g) Monies payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provided that the monies shall be payable or in the absence of any such provision, at the head office of the company;

(h) Shares in a partnership shall be deemed to be situated at the place where the business is *principally* carried on;

(i) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;

(j) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

(k) Patents, trade marks and designs shall be deemed to be situated at the place where they are registered;

(l) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trade mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(m) Rights or causes of action *ex-delicto* surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose.

11. *Location of immovable property.*—The locality of immovable assets which for the purpose of estate duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Tangible immovable property shall be deemed to be situated in India, if the property actually lies in India.

(b) Rights or interests in immovable property or benefits to arise out of immovable property, which are immovable property within the meaning of these rules, are situate in India, if the property to which the rights are attached or out of which the benefits arise, actually lies in India.

PART IV—PURCHASE OF ANNUITIES FROM RELATIVES

(Sec. 27)

12. *Purchase of annuities from relatives.*—(1) Subject to the provisions of this rule, the relief specified hereunder shall be granted where any estate duty becomes, or would but for this rule become, payable by virtue of section 27 of the Act.

(2) The sum on which estate duty would be payable apart from this rule on the death in respect of the property which was the subject matter of the disposition or in respect of the property liable to a debt or encumbrance created by the deceased which was the subject matter of the disposition, as the case may be shall first be computed and, subject to such limitations provided for by sub-rule (3) of this rule, there shall then be allowed as a deduction from that sum—

(a) the amount, if any, by which the aggregate of the payments which have been made on account of the annuity or other interest for the period from the date when the annuity or other interest began to accrue in favour of the deceased until his death, exceeds the aggregate of the income derived from the deceased by virtue of the disposition, for the period from the date of the disposition until his death; and

- (b) simple interest on so much, if any, of the amount aforesaid and for such period, as, in the opinion of the Controller, is in all the circumstances just, at the rates from time to time payable during that period on estate duty in arrear.

The expression "aggregate of the income derived from the deceased by virtue of the disposition" means—

- (i) in relation to so much of the property which was the subject matter of the disposition as did not consist of a debt or encumbrance created by the deceased, such amount as, in the opinion of the Controller, is in all the circumstances equal to a reasonable return from the property; and
- (ii) in relation to so much of the property which was the subject matter of the disposition as did consist of a debt or encumbrance created by the deceased, the aggregate amount of the interest paid or payable by the deceased in respect of that debt or encumbrance.

(3) The amount to be allowed as a deduction under sub-rule (2) of this rule shall in the circumstances mentioned hereunder be limited to the extent specified in this sub-rule. Further, the provisions of sub-section (1) of section 46 of the Act shall in the manner specified in this sub-rule have effect in relation to the computation of the amount allowed—

(a) Where, if

- (i) the annuity payments had formed the consideration for a debt created by the deceased equal to the total amount of those payments; and
- (ii) section 44 of the Act (which provides for an allowance for debts in computing the amount on which the estate duty is payable) were applied to that debt,

the full amount of that debt would not, having regard to the operation of sub-section (1) of section 46 of the Act, have been allowable under section 44, the annuity payments shall, for the purpose of ascertaining the amount allowed, be reduced, so as not to exceed the amount, if any, which would have been allowable in the circumstances aforesaid under section 44 of the Act.

Provided that in applying the said section 46 for the purpose of this rule, property which is the subject matter of the disposition shall not be treated as property derived from the deceased.

(b) Where, if section 27 had not been enacted and section 26 had been applied to the property which was the subject matter of the disposition, a deduction would have been allowable under sub-section (2) of section 26 for partial consideration, the amount allowed shall not exceed the amount of that deduction.

(c) Where the amount allowed is allowed as a deduction from the value of property liable to a debt or encumbrance created by the deceased, it shall not exceed the amount, if any, which would be allowed under section 44 if section 27 had not been enacted.

(d) In this rule the expression "the annuity payments" means the payments specified in clause (a) of sub-rule (2) of this rule and the expression "the amount allowed" means the amount to be allowed as a deduction under this rule.

PART V—OBJECTS OF NATIONAL SCIENTIFIC AND HISTORIC INTEREST OR OTHER DRAWINGS, PAINTINGS, ETC. RETAINED IN THE FAMILY

[Section 33(1) (i) and (j)]

13. *Conditions for exemption.*—(1) Objects of national, scientific or historic interest or other drawings, paintings, etc. specified in clauses (i) and (j) of sub-section (1) of section 33 of the Act which are retained in the family of the deceased shall be exempt from the duty on an undertaking being given by such person as the Central Board of Revenue may think appropriate in the circumstances of the case that, until the objects again pass on a death or are sold—

- (a) the objects will be kept permanently in India and will not leave it temporarily except for a purpose and a period approved by the Central Board of Revenue; and
- (b) reasonable steps will be taken for the preservation of the objects; and
- (c) reasonable facilities for examining the objects for the purpose of seeing the steps taken for their preservation, or for purposes of research or report will be allowed to officers of the National Museum, National

Art Gallery, Department of Archaeology and the National Archives or to any person authorised by the Central Board of Revenue so to examine them; and

(d) the objects will be dealt with or disposed of in accordance with the directions of the Central Government.

(2) In the event of the sale of any objects to which this rule applies estate duty shall, subject to as hereinafter provided, become payable on the proceeds of sale in respect of last death on which the objects passed at the rate appropriate to the principle value of the estate passing on that death and the persons by whom or for whose benefits the objects were sold shall be accountable for the duty and shall deliver an account for the purpose thereof within one month after the sale.

Provided that the duty shall not become payable as aforesaid if the sale is to Government or to any University or other public institution in India.

14. *Exceptions to undertaking.*—If on a claim for exemption under clauses (i) and (j) of sub-section (1) of section 33 of the Act it is made to appear to the Central Board of Revenue that any documents for which the exemption is claimed contain information which for person or other reason ought to be treated as confidential, the Central Board of Revenue may exclude those documents either altogether or to such extent as they think fit from any undertaking under sub-rule (1) of rule 13 so far as an undertaking relates to the examination of the documents for purposes of research.

15. *Effect of default in complying with the undertaking.*—(1) Where any objects are exempted from estate duty in pursuance of an undertaking under sub-rule (1) of rule 13 and the Central Board of Revenue are satisfied that at any time during the period for which the undertaking was given it has not been observed in material respect, then estate duty shall become payable on the value at that time of those objects in respect of the death on which the exemption was given and at the rate appropriate to the principal value of the estate passing on that death upon which estate duty would have been payable if they had not been objects to which clauses (i) and (j) of sub-section (1) of section 33 applies; and any person who, if the objects were sold when the duty becomes payable, would be entitled to receive (whether for his own benefit or not) the proceeds of sale or any income arising therefrom shall be accountable for the duty.

(2) Where any objects are sold after becoming liable to estate duty under sub-rule (1) of this rule in respect of any death, the proceeds of the sale shall not be liable to estate duty in respect of the same death under sub-rule (2) of rule 13.

PART VI.—VALUATION AND INSPECTION OF PROPERTY (Sec. 41)

16. *Valuation.*—(1) Controller may accept the valuation as shown in the account delivered by the accountable person or may, if he is not satisfied with the valuation shown therein, either himself place a valuation thereon on his own estimate or appoint a person to appraise such properties and to set the valuation thereon. The cost of any such professional assistance shall be defrayed by the Government.

(2) The price or value at which a testator may have given by his will to a particular person the option to acquire a property will not be considered as a test of its market value.

(3) When a property has actually been sold within a short time after the death of the deceased under open market conditions, the gross sum realised shall be taken as the principal value and no deduction shall be made for the expenses of the sale.

(4) If the property is part of an unadministered estate or a share of property subject to a trust already in operation which involves conversion or if the property consists of certified chattels of national, historic or scientific interest, a reasonable deduction for cost of sale may be allowed by the Controller in determining the value thereof.

(5) If the property consists of land containing minerals a separate value should be placed on the latter on the basis of a certificate by a qualified Mining Engineer.

(6) In the case of any agricultural land the principal value shall not ordinarily exceed twenty times of the annual value as assessed for the purpose of land revenue.

(7) In arriving at the market value of interests in expectancy, the following conditions shall be taken into account:—

(a) The age and state of health of the life tenant, the contingency affecting the duration and effect of his interests and the possible cost of covering as interest by insurance.

- (b) The estate duty and costs of realization and distribution payable when the interests fall into possession.
- (c) The character of the assets and the possibilities of their appreciation or depreciation in value.
- (d) The rate of interest, and officially recognised tables of mortality.
- (8) Value of the dutiable property abroad should be calculated at the rate of interest on the date of death.

17. *Inspection*.—(1) Controller may by written order signed by him authorise any person to enter upon or inspect any property for the purpose of the Act.

(2) The person or persons having the custody or possession of the property shall permit the person so authorised to enter upon and inspect it on any day excluding Sundays and holidays under the Negotiable Instruments Act, 1881, at any time between 6 a.m. and 6 p.m.

PART VII—ALLOWANCE FOR DUTY PAID IN A NON-RECIPROCATING COUNTRY

(Sec. 49)

18. *Amount of allowance*.—Where any property liable to estate duty in India under the Act has been subjected to estate duty in any other country with which no arrangement has been made for avoidance or relief of double taxation with respect of estate duty, the amount to be allowed by the Controller under section 49 of the Act as a deduction from the value of the property shall be—

- (a) the full amount of duty paid in the other country if the law in the other country relating to the determination of the situs of the property concerned for the purpose of imposition of the duty is the same as in India.
- (b) Such amount as the Board may direct, in other cases.

PART VIII—PAYMENT OF DUTY

19. *Calculation and adjustment of duty*.—Duty shall, in the first instance, be calculated at the proper rate according to the principal value of the estate as set forth in the account delivered under section 53 or clause (a) of section 57 or prepared under sub-section (2) of section 61 of the Act but if, afterwards it is found that for any reason too little duty has been paid, the additional duty shall be payable and be treated as duty in arrear subject to the conditions specified in sub-section (2) of section 62.

20. *Method of paying duty*.—(1) Duty may be paid—

- (a) by delivery of a cheque on a scheduled bank at the office of the Controller;
- (b) by delivery of a bank draft issued by a scheduled bank at the office of the Controller;
- (c) by depositing the amount of the duty to the credit of the Central Government at any Government treasury or sub-treasury, or at any branch of the Reserve Bank of India, or at any branch of the Imperial Bank of India or at any of its agency conducting Government treasury business or at any other bank authorised by the Central Government in this behalf.

[NOTE.—Where an amount is deposited under clause (c) above it should be accompanied by the appropriate treasury challan of which the receipted portion will be returned to the tenderer.]

(2) The cheques and bank overdrafts shall be drawn in favour of the Reserve Bank of India and shall be crossed.

(3) Where a cheque has been delivered to the Controller the duty shall not, notwithstanding any receipt given therefor, be deemed to have been paid until the amount for which the cheque is drawn has been collected.

(4) Receipts for payment of duty shall be issued only by such persons as the Controller may authorise.

21. *Payment on account in respect of duty*.—A sum may be paid on account of duty at any time in the manner provided in the preceding rule, the cheque or the bank draft being accompanied by a letter stating the name and date of death of the deceased person and if known, the official reference No. of his estate. Similar letter shall be sent where the sum is deposited to the credit of the Central Government.

PART IX—DELIVERY AND PREPARATION OF ACCOUNTS

(Sections 53, 57, 61 and 72)

22. Form of account.—(1) The account required to be delivered under sub-section (3) of Section 53 of the Act shall be in Form ED 1 appended to these rules, and the supplementary account mentioned in sub-section (4) of the said section shall be in the same form duly adapted to suit the requirements of the items included therein.

(2) The account to be annexed to the affidavit of valuation mentioned in Clause (a) of Section 57 of the Act shall also be in Form ED 1.

(3) The account mentioned in sub-section (2) of Section 61 of the Act shall be in Form ED 1.

(4) All such accounts shall show the principal value of each item of property comprised in the estate with full details together with the basis of valuation. Such valuation may be ascertained by the accountable person either by estimating it himself or if ascertained with professional assistance, the certificate of the qualified valuer shall be appended.

(5) The Controller may at his discretion accept the Form of account substantially similar to the prescribed Form.

23. Beneficiaries to account.—Where the property of the deceased liable to duty has been distributed, each of the persons to whom the property has been distributed shall furnish a full and complete account of all the property received by him from the deceased.

24. Copy of the will to accompany account.—The accountable person shall furnish with the original account to be delivered under sub-rule (1) or (2) of rule 22 of these Rules, a certified copy of the will, if any, of the deceased and of codicils thereto.

25. Account to be in duplicate.—An account required to be delivered under any of the foregoing rules shall be in duplicate.

26. Production of account.—The accountable person shall produce or cause to be produced at the office of the Controller having jurisdiction over the estate of the deceased, any book of account or document which may by a notice in writing be required by the Controller in connection with an account delivered under the provisions of the Act or these rules or for the purposes of assessment of the duty.

27. Account when deemed to be duly delivered.—An account shall be deemed to have been duly delivered to the Controller when—

(a) the prescribed Form signed by the accountable person and containing a full, true and complete statement of all matters and things required to be stated therein by the Act, these rules, the Controller and the form itself, and

(b) all documents and copies of which, by the Act, these rules, or the Controller are required to be furnished with the account,

have been received by the Controller or by an officer authorised by the Controller to receive them, and not otherwise.

PART X—MISCELLANEOUS

Certificate of Payment of Duty

(Sections 60, 67 and 69)

28. Form of application and certificate.—(1) An application for a certificate under sub-section (5) of section 67 of the Act shall be in Form ED 2.

(2) A certificate under section 60 of the Act shall be in Form ED 3.

(3) A certificate under sub-sections (1), (2) and (3) of section 67 and under section 69 of the Act shall be in Form ED 4.

Recovery of Duty

(Section 73)

29. Duty to be recovered under certificate.—(1) For the purpose of recovery of duty under section 73 of the Act, the Controller shall issue a certificate in writing to the effect that—

(a) the person named in the certificate is the executor or other person accountable or liable under the Act to pay the duty;

(b) the amount of duty stated in the certificate includes duty payable in respect of the property mentioned in the certificate;

- (c) notice of the duty payable was duly served on the person named in the certificate;
 - (d) the sum named in the certificate was, at the date of the certificate, due to the Government of India in respect of duty.
- (2) In this rule the expression "duty" includes a interest or penalty payable under the Act.

Particulars to be Furnished by a Company Regarding a Deceased Member

(Section 84)

30. *Particulars to be furnished by a foreign company.*—For the purposes of section 84 of the Act, a company to which that section applies shall furnish to the Controller a statement showing the following particulars:—

- (1) Name of the deceased member.
- (2) Last known address.
- (3) Date of death.
- (4) Date of lodgment or notification of probate or letters of administration or of notice of death.
- (5) Description of the shares and/or stocks held in the company by the member at the time of his death.
- (6) No. of such shares and/or stocks with distinctive No. of stock or share certificates.
- (7) Nominal value of the shares and stocks.
- (8) Market value per share or stock at date of death.
- (9) Basis of valuation.
- (10) Total value of holding.
- (11) Names and addresses of trustees, administrators or any other legal representatives.

31. *Particulars to be furnished by an Indian company.*—Where a company formed and registered under the Indian Companies Act, 1913 (VII of 1913) has come to know through any of its principal officers, of the death of any of its members, it shall within one month of the receipt of such knowledge, furnish the following particulars to the Assistant Controller or the Deputy Controller, who is exercising the functions of the Income-tax Officer in the case of the company—

A. *Where any transfer of a part or whole of the stocks and shares standing in the name of the deceased has been registered by the company because it was satisfied that the transferee had acquired such shares for valuable consideration—*

- (i) name and address of the deceased member in whose name the shares stood;
- (ii) name and address of the transferee;
- (iii) description of the shares transferred (with distinctive numbers);
- (iv) nominal value of the shares transferred;
- (v) amount of consideration paid by the transferee;
- (vi) name and address of the seller to whom or of the broker through whom, the consideration was paid;
- (vii) description of any other shares still standing in the name of the deceased on the date of furnishing the particulars.

B. *Where no transfer of any shares standing in the name of the deceased has been registered on the date of furnishing the particulars—*

- (i) name and address of the deceased member;
- (ii) description (with distinctive numbers) of stocks and shares standing in the name of the deceased;
- (iii) nominal value of the stocks and shares held;
- (iv) estimated market value thereof on the date of the death of the deceased;
- (v) name and address of the trustee, administrator or other legal representative of the deceased;
- (vi) whether any application has been received from any person for the transfer of such shares;
- (vii) if so, name and address of the person who has applied for transfer.

FORMS

E.D.—1

ESTATE DUTY

(See rule 22)

GOVERNMENT OF INDIA

In the Office of the Controller of Estate Duty, Range/Circle.....

NOTE.—Form IE issued herewith contains the notes to which reference is made in this Form by numbers or letters enclosed in brackets.

In the estate of.....deceased.

I/We(1)make oath/affirm and declare as follows:—

1. I am/we are the person/persons liable under the Estate Duty Act, 1953, to deliver an account of the estate of the above-mentioned deceased and to pay the duty thereon under the said Act.

2. That the deceased died on the.....day of.....19..... at..... and was aged.years. He/She was at the time of death domiciled in(2).....

3 The First Part of the ACCOUNT No. 1, hereto annexed, is a true account of the particulars and value, as at the date of the deceased's death, so far as I/We have been able to ascertain the same, of all the movable property of the deceased, whether in possession or reversion, within the States of India except Jammu and Kashmir, exclusive of what the deceased may have been possessed of or entitled to as a trustee and not beneficially, but including any such movable property over which the deceased had and exercised by will a general power of appointment.

The gross value thereof, as at the date of the deceased's death, was Rs..... as per Account No. 1 (First Part).

4. The Second Part of the ACCOUNT No. 1, hereto annexed, is a true account of the particulars and value, as at the date of the deceased's death, so far as I/We have been able to ascertain the same, of all the immovable property, situate in the States of India except Jammu and Kashmir, to which the deceased was entitled for an interest not ceasing on his/her death, including any immovable property over which the deceased exercised by will a general power of appointment, but exclusive of property which the deceased may have been possessed of or entitled to as a trustee and not beneficially

The gross value thereof, as at the date of the deceased's death, was Rs..... as per Account No. 1 (Second Part).

5 The Third Part of the ACCOUNT No. 1 hereto annexed is a true account of the particulars and value as at the date of the deceased's death, so far as I/We have been able to ascertain the same, of all agricultural lands situate in the States of India except Jammu and Kashmir, to which the deceased was entitled for an interest not ceasing on his/her death including any agricultural lands over which the deceased exercised by will a general power of appointment but exclusive of agricultural lands which the deceased may have been possessed of or entitled to as a trustee and not beneficially.

6. The Fourth Part of the ACCOUNT No. 1 hereto annexed is a true account of the particulars and value as at the date of the deceased's death, so far as I/We have been able to ascertain the same, of cesser of interest in joint property of a Hindu family governed by Mitakshara, Marumakkattayam or Aiyasantana law situate in the States of India except Jammu and Kashmir.

7. The ACCOUNT No 2(3) hereto annexed, is a true account of the particulars and gross value, as at the date of the deceased's death, so far as I/We have been able to ascertain the same, of all the movable property of the deceased, whether in possession or reversion, situate out of the States of India except Jammu and Kashmir, exclusive of what the deceased may have been movable property over to as a trustee and not beneficially, but including any such movable property over which the deceased had and exercised by will a general power of appointment.

8. There was(4).....other movable property of which the deceased was at the time of his/her death competent to dispose within the meaning of sub-section (1) of section 3. The particulars and value thereof, as at the date of the deceased's death, so far as I/We have been able to ascertain the same, are truly set forth in the ACCOUNT No. 3 (a) hereto annexed.

9. The deceased had⁽⁵⁾ general power..... to charge money on immovable property. The particulars of such power are set forth in the ACCOUNT No. 3(b) hereto annexed.

10. (6) I/We have not been able to ascertain the precise amount or value of the movable property referred to in Exhibit.....annexed to ACCOUNTS Nos. 1, 2, 3(a) and 3(b), although I/We have made the fullest possible enquiries, but so far as the amount and value can now be estimated, they are stated in the ACCOUNT(S) No.(s). by reference to the said Exhibit, which contains all, the particulars of such property known to me/us. I/We undertake, as soon as the amount and value are fully ascertained, to bring in a full account thereof and to pay both the additional duty (if any) payable thereon for which I/We am/are or may be liable, and any further duty, payable by reason thereof, for which I/We am/are or may be liable on the other property mentioned in this declaration.

11. The First Part of the SCHEDULE No. 1, hereto annexed, contains a true and particular list of the debts due and owing from the deceased at the time of his/her death to persons resident within the States of India except Jammu and Kashmir, or due to persons resident out of the said States, but contracted to be paid in any such State or charged on property situate within any such State, with the names and addresses of the several persons to whom the same are respectively due, and the descriptions and amounts of such debts.

The Second Part of the said Schedule contains a true and particular statement of the allowances under section 44, on account of debts by way of dower, payable out of the estate of the deceased.

The Third Part of the same Schedule contains true account of the funeral expenses of the deceased.

12. The SCHEDULE No. 2⁽³⁾ hereto annexed contains a true and particular list of the debts due and owing from the deceased at the time of his/her death to persons resident out of the State of India except Jammu and Kashmir (other than debts contracted to be paid in any such States, or charged on property situate within any such States, which have been entered in the SCHEDULE No. (1) with the names and addresses of the several persons to whom the same are respectively due, and the descriptions and the amount of such debts. The SCHEDULE No. 2 contains also a true statement of the amount of any duty payable in any foreign country by reason of the deceased's death in respect of property situate in that foreign country, and included in the ACCOUNT No. 2.

13. The said debts in the said SCHEDULES Nos. 1 and 2 are payable by law out of property comprised in the said ACCOUNTS Nos. 1 and 2 respectively. They were incurred by the deceased bona fide for full consideration ⁽⁷⁾ in money or money's worth wholly for the deceased's own use and benefit. They are not, nor are any of them, debts which are primarily payable out of any immovable property⁽⁸⁾ or debts in respect whereof there is a right to reimbursement from any other property or person⁽⁹⁾.

14. The SCHEDULE No. 3, hereto annexed, contains a true and particular list of the debts and encumbrances which were subsisting charges at the deceased's death on the immovable property except agricultural land comprised in the said ACCOUNT No. 1 or on some part or parts thereof, with the particulars of the instruments by which the debts and encumbrances were secured or created, and the names and addresses of the several persons to or in whom the said debts and encumbrances are now due or vested.

The said debts and encumbrances were incurred or created by the deceased, or by some one or more of his/her predecessors in title. In so far as they were incurred by the deceased, or were created by a disposition made by him/her, they were incurred or created bona fide for full consideration in money or money's worth, wholly for the deceased's own use and benefit, and they take effect out of his/her interest. The said debts and encumbrances are not, nor are any of them, primarily chargeable upon any other property, and they are not debts or encumbrances in respect whereof there is a right to reimbursement from any other property or person ⁽⁶⁾.

15. Schedule No. 4 hereto annexed contains a true and particular list of the debts and encumbrances which were subsisting charges at the deceased's death on the agricultural lands comprised in the said ACCOUNT No. 1 or on some part or parts thereof, with the particulars of the instruments by which debts and encumbrances were secured or created and the names and addresses of the several persons to or in whom the said debts and encumbrances are now due or vested.

The said debts and encumbrances were incurred or created by the deceased, or by some one or more of his/her predecessor in title. In so far as they were incurred by the deceased or were created by a disposition made by him/her they were incurred or created *bona fide* for full consideration in money or money's worth, wholly for the deceased's own use and benefit, and they take effect out of his/her interest. The said debts and encumbrances are not, nor are any of them, primarily chargeable upon any other property and they are not debts or encumbrances in respect whereof there is a right to re-imbursement from any other property or person.

16. That the deceased made no gifts in contemplation of death,⁽¹⁰⁾ save those described and valued in Exhibit..... which have been entered in ACCOUNT No.....

17. That the deceased made no disposition of property within two years of his death purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust, settlement upon persons in succession, or otherwise, save⁽¹⁰⁾ those prescribed and valued in Exhibit..... which have been entered in ACCOUNT(S) No.(s).....

18. That the deceased made no disposition of property at any time in respect of which the donee did not assume *bona fide* possession to the immediate and entire exclusion of the donor, or where a benefit was reserved or secured to the deceased by contract or otherwise save those described and valued in Exhibit....., which have been entered in ACCOUNT(S) No.(s).....

19. That there is no other property falling under the following descriptions⁽¹⁰⁾ save those described and valued in Exhibit....., which have been entered in the appropriate accounts as indicated in Exhibit.....

(a) Property in which the deceased or some other person had an interest which ceased on the death of the deceased.

(b) Property which the deceased had enjoyment of or interest in for life, or for some period determinable by reference to his death, under an expressed or implied trust in a settlement made by himself.

(c) Property which the deceased caused to be vested in himself and some other person jointly either by disposition, or purchase, so that the other person takes by survivorship.

(d) The deceased's severable share of property of which he was a joint tenant or joint owner with another or others.

(e) Policies which the deceased effected on his life, and kept up wholly or partly for the benefit of a donee, whether nominee or assignee.

(f) Annuities or other interests which the deceased either alone or by arrangement with any person purchased or provided, including annuities purchased or provided wholly or partially by some person who was at any time entitled to any property derived from the deceased.

(g) Gifts by way of creation of a burden or release of a right.

20. That to the best of my/our knowledge and belief there is no other property under any title whatsoever in respect of which duty is chargeable on the death of the deceased.

I/We⁽¹¹⁾ swear/affirm that the statements in paragraphs are true, and that the statements in paragraphs..... are made upon information received by me/us and solemnly and sincerely believed to be true.

Signed.....

Signed.....

Declared on oath on affirmation

before me this day of 19...
at (place) by the above named..... who is/are
personally known to me.
identified by

*Signed

Designation.....

*This may be sworn or affirmed before any Magistrate or other Court, or before a person having by law authority to receive evidence. The designation of the Magistrate, Court or person should be added below the signature.

ACCOUNT No. 1—(FIRST PART)

Movable Property situate in the States of India except Jammu and Kashmir

	Nominal value of Securities	Market price of Securi- ties at the date of death	Gross prin- cipal value at the date of death
	Rs.	Rs.	Rs.
Stocks, Bonds or Funds (including Treasury Bills) of the Central Government or State Governments, as per Form 1A annexed.			
* Stocks, or other Securities of local authorities in India, as per Form 1A annexed.			
Stocks, Bonds, Funds, etc., of other Governments or Foreign countries, and Stocks, Debentures, or Bonds of Municipal or other Corporations, or Public Authorities, etc., in Foreign countries, as per Form 1A.			
Stocks, Shares, Bonds, or Debentures, of Companies, as per Form 1 A annexed (A). (The denomination of each share or stock unit should be stated.)			

Uncashed dividends and interest, dividends declared, and interest accrued due, in respect of the above investments, to date of death, as per statement annexed (B).

	Gross prin- cipal value at the date of death.
	Rs.
Money in hand or house	
Money in Bank (C) { (1) On current account, including accrued interest (2) on deposit, including accrued interest	{ as per state- ment annex- ed.
Money at the Post Office or other Savings Bank ; Building of Co-operative Society, etc., as per statement annexed.	
Money out on mortgage, and interest thereon to date of death, as per statement annexed.	
Money out on bonds, bills, promissory notes and other securities, and interest thereon to date of death, as per statement annexed.	
Book debts, as per statement annexed. Other debts, as per statement annexed.	
Unpaid purchase money of movable and leasehold property contracted in life-time of the deceased to be sold, as per statement annexed.	
Deceased's interests in proceeds of sale of immovable property subject to a trust for sale, whether actually sold or not, as per statement annexed (D).	
Property over which the deceased had and exercised by will a general power of appointment, as per statement annexed (D).	
Property over which the deceased had, but did not exercise, a general power of appointment, and which, by default of exercise of the power of appointment, belonged to the deceased absolutely, as per statement annexed (D).	

Policies of insurance and bonuses (if any) thereon, on the life of the deceased, as per statement annexed.

Household goods, furniture, books, plate, any wearing apparels including any precious or semiprecious stones or ornaments sewn into the wearing apparel, etc. (E).	{ If sold, realised gross Rs.
Jewellery, watches, trinkets, etc. (E).	{ If unsold, estimated at Rs.
	{ If sold, realised gross Rs.
Motor cars, carriages, horses, harness saddlery, etc. (E).	{ If unsold, estimated at Rs.
Stock in trade, live and dead farming stock, implements for agricultural purposes, etc.	{ If sold, realised gross Rs.
	{ If unsold, estimated at Rs.
Goodwill of business	{ If taken over at a price Rs.
	{ If valued according to custom of trade. Rs.
	{ If neither, estimated at Rs.

Profits of business from 19 to date of death,

Ships and shares of ships registered at ports in India, as per statement annexed (F).

Profits of same to date of death, (G) estimated at

The deceased's share in movable and immovable property as a partner in the firm of as per balance sheet annexed, signed by the surviving partners.

If a balance sheet is not available, estimated at

Leasehold property for years, as per form 1B.	{ If sold, realised gross Rs.
	{ If unsold, estimated at Rs.

(Mortgages on the leasehold property should be deducted by inclusion in Schedule No. 1)

Rents of the deceased's own immovable and leasehold property due prior to the death, but not received by the deceased, (G) estimated at	Rs.
---	-----

Apportionment of the rents of the deceased's immovable and leasehold property to date of death, (G) estimated at	Rs.
--	-----

Income accrued due, but not received prior to the death, arising from immovable and movable property in which the deceased had a life or other limited interest, viz., (D).	Rs.
---	-----

Apportionment of income from such source to date of death	Rs.
---	-----

Any other income apportioned where necessary, to which the deceased was entitled at his death (e. g. pensions, annuities, director's fees, etc.), as per statement annexed	Rs.
--	-----

Any interests in expectancy, as per statement annexed (J)	Rs.
---	-----

Other movable property not comprised under the foregoing heads, viz.,	Rs.
---	-----

Gross Movable Property]

Carried to item 1 of the summary.

ACCOUNT No. 1 (SECOND PART)

Immovable Property except agricultural lands situate in the States of India except Jammu and Kashmir.

Each item of property should be listed and particulars should be given in Form 1B in respect of lands and any interest in expectancy in immovable property should also be stated (K).	Gross annual value at the date of death]	Gross principal value at the date of death
---	--	--

Rs.

Rs.

Gross Value]

Carried to Item XI of the summary.

To be signed by the person(s) making oath or affirmation.

ACCOUNT No. 1 (THIRD PART)

Agricultural lands situate in the States of India except Jammu & Kashmir

Each item of agricultural lands shall be listed and particulars should be given in Form 1C, in respect of agricultural lands and any interest in expectancy in agricultural lands should also be stated.

Gross annual value at the date of death Gross principal value at the date of death

Rs.

Rs.

Gross Value ;

Carried to item XIV of the summary.

To be signed by the person(s) making oath or affirmation.

ACCOUNT No. 1 (FOURTH PART)

Cessor of interest in joint family property of a Hindu family governed by Mitakshara/Marumakkattayam/or Aliyasantana law

Principal value of the family property
(Each item of the property should be listed and particulars should be given in Form 1D in respect of all properties belonging to the joint family with details of any gifts, transfers, settlements or trusts, etc., made by the family within 2 years of the death of the deceased)

Deceased's interest therein

Value of the deceased's interest ceasing. (Carried to item No. IX of the summary)

1

2

3

Name of the karta of the family

Names of the members of the family who would be entitled to a share if partition took place immediately before death of the deceased and their share

Age of the deceased

If the deceased was below 18 years of age, whether a lineal male ascendant of the deceased was a co-parcener in the family

4

5

6

7

To be signed by the person(s) making oath or affirmation.

ACCOUNT No. 2

Movable Property situate outside the States of India except Jammu & Kashmir, which is not saleable or transferable in any such States.

Note.—Property saleable or transferable in such States should be included in Account No. 1.

Particulars of the Property	Local situation	Principal value at date of death.
		Rs.
	Gross Value	Carried to item VI of the Summary.

To be signed by the person(s) making oath or affirmation.

ACCOUNTS Nos. 3(a) AND 3(b)

3(a).—An account of the movable property other than that in Accounts Nos. 1 and 2, of which the deceased at the time of death was competent to dispose within the meaning of section 3(1).

3(b).—An account of money which the deceased had, at the time of death, a general power to charge on immovable property whether the power was exercised by will or not.

Short material particulars of disposition conferring the power.	Particulars of Full particulars leaseholds for be separately	property. of any years should stated.	Principal value at date of death
			Rs.
3(a).			
	Gross Value		
Deduct—Debts and encumbrances upon leaseholds, as per statement annexed.			
	Net Value		
3(b).—(i) Where the power was exercised (as per statement annexed)			
(ii) Where the power was not exercised (as per statement annexed)			

TOTAL of 3 (a) and 3(b) carried to item VIII of the Summary.

To be signed by the person(s) making oath or affirmation.

SCHEDULE NO. I (FIRST PART)

An Account of the debts (including mortgage debts secured on leasehold property) due and owing from the deceased to persons resident within the States of India except Jammu and Kashmir or due to persons resident out of the said States but contracted to be paid in any such State, or charged on property situate within any such State.

(Where the debts on the deceased's movable property exceed the value thereof, and the deficiency is a proper deduction for Estate Duty purposes against the deceased's immovable property, deduction of such deficiency may be taken in Schedule No. 3.)

Name and address of creditor	Description of debt (including date and short particulars of any security for the debt)	Amount
(1)	(2)	(3)

Read] Notes (H) and (L)

Rs.

Total, First Part

SCHEDULE NO. I (SECOND PART)

A statement of the allowances claimed under clause (d) of section 44 on account of debt by way of dower.

Amount

Rs.

SCHEDULE NO. I (THIRD PART)

An account of the funeral expenses of the deceased.

Amount
(actual or Rs. 1000
whichever is less.)

Rs.

Total First, Second and
Third Parts.

To be signed by the person (s) making oath or affirmation.

SCHEDULE NO. 2

An account of the debts due and owing from the deceased to persons resident out of the States of India except Jammu and Kashmir, other than debts contracted to be paid in any such State, or charged on property situate within any such State, which have been entered in the schedule No. 1.

Name and address of creditor (1)	Description of debt (including date and short particulars of any security for the debt) (2)	Amount (3)
Read Note (M)		Rs.
TOTAL		

To be signed by the person(s) making oath or affirmation.

SCHEDULE NO. 3

*An account of the debts and encumbrances upon the immovable property in Account No. 1.

(Where the debts on the deceased's immovable property exceed the value thereof, and the deficiency is a proper deduction for Estate Duty purposes against the deceased's movable property, deduction of such deficiency may be taken in Schedule No. 1).

Nature of debt or encumbrance and by whom created (Rs.) (1)	Short material particulars of security with date of, and names of parties to, any deed (2)	Short particulars of property charged to identify it in above account (3)	Names and addresses of persons to or in whom the debt or encumbrances is now due or vested (4)	Amount of debt or encumbrances (5)
---	---	--	---	---------------------------------------

*Read Notes (H) and (L).

To be signed by the person (s) making oath or affirmation.

* SCHEDULE NO. 4

An account of the debts and encumbrances upon agricultural lands in Account No. 1.

[Where the debts on the deceased's agricultural lands exceed the value thereof, the deficiency is a proper deduction for Estate Duty purposes against the deceased's other immovable or movable properties, deduction of such deficiency may be taken in appropriate Schedule].

Nature of debt or encumbrances and by whom created (1)	Short material particulars of security with date or and names of the parties to, any deed (2)	Short particulars of the agricultural lands charged to identify it in the above account (3)	Names and addresses of persons to or in whom the debt or encumbrances is now due or vested (4)	Amount of debt or encumbrances (5)
---	--	--	---	---------------------------------------

TOTAL

To be signed by the person(s) making oath or affirmation.

SUMMARY

	Rs.	Rs.	Rs.
I. Gross movable property in Account No. 1 (First Part).			
II. <i>Deduct</i> —Total of Schedule I			
III. Net movable property in Account No. 1			
IV. Gross movable property in Account No. 2			
V. <i>Deduct</i> —Total of Schedule No. 2			
VI. Net movable property in Account No. 2			
VII. Net movable property in Account Nos. 1 and 2 (Total of III and VI)			
VIII. Net movable property in Account Nos. 3 (a) and 3(b)			
IX. Co-parcenary interest in HUF ceasing Account No. 1 (Fourth Part)			
X. Net movable property in Account Nos. 1, 2, 3(a) and 3(b) (Total of VII and VIII)			
XI. Gross immovable property except agricultural land in Account No. 1 (Second Part)			
XII. <i>Deduct</i> —Total of Schedule No. 3			
XIII. Net immovable property in Account No. 1			
XIV. Gross agricultural land in Account No. 1 (Third Part)			
XV. <i>Deduct</i> —Total of Schedule No. 4			
XVI. Net agricultural land in Account No. 1			
XVII. Net movable and immovable property (Total of X, XIII and XVI)			
Exemptions claimed (N).			

FORM 1-A

ESTATE DUTY

E.D.-1.

Statement of Stocks and Shares to accompany the Estate Duty Account.

Amount of stock or No. of shares	Name of company, followed by full description of holding.	Nominal value of holding	Market price at date of death	Principal value at date of death
1	2	3	4	5

To be signed by the person (*) making oath or affirmation.

FORM I B

ESTATE DUTY

E. D. -I.

Statement of Immovable (and/or, Leasehold Property excluding agricultural lands.

Identification No.	Description of property including situation (If the property is leasehold for years, the unexpired term, as at the date of death of the deceased, should be stated.) NOTE.—The description and situation of the property should be such as to enable it and its boundaries to be clearly identified.	Rental if let. Rs.	If unlet, the gross annual value. Rs.
1	2	3	4

Nature of deductions from gross annual value	Amount of annual deductions Rs.	Net annual value. Rs.	Estimated principal value as at date of death, and, if since sold, gross amount realised and date of completion of sale. Rs.
5	6	7	8

To be signed by the person (s) making oath or affirmation.

FORM IC

ESTATE DUTY

Statement of Agricultural lands in the State of India except Jammu and Kashmir.

E.D.I.

NOTE (1) Several allotments of land forming one property or managed as one estate should be entered as one item.

(2) If lands are distributed over different States, the aggregate of such lands in each State should be shown separately.

Description and situation					Deceased's share	Nature of the crop (paddy, jute, etc.)	Total acreage
Name of the State	Name of the District	Name of the Police station	Touzi No. or name of Pargana	Identification No. or No. of Plots under settlements records.			
1	2	3	4	5	6	7	8

Crop for 1 year to date of death	Rental if let	If unlet the gross annual value	Annual deduction if any	Net annual value	Land revenue payable	Estimated principal value as at date of death and if since sold, gross amount realised and date of sale.	Basis of valuation
9	10	11	12	13	14	15	16

To be signed by the person (s) making oath or affirmation.

FORM 1D

ESTATE DUTY

E.D.-I.

Statement of the property of the Hindu undivided family governed by Mitakshara, Marumkattayam or Aliyasaniya law of which the deceased was a co-parcener, as at the date of death.

Details of		Gross value of the estate.
Movable property situated in India	Immovable property situated in India.	
situated outside India.		
1		2

Gifts or dispositions <i>bona fide</i> made by the Family within 2 years of the death of the deceased purporting to operate as an immediate gift <i>inter vivos</i> whether by way of transfer, delivery, declaration of trust, settlement upon persons in succession, or otherwise.	Details of debts and encumbrances.	Net value
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3

4

5

To be signed by the person (s) making oath or affirmation.

E.D.-1

FORM IE

Notes to which reference is made in Form E.D.-1 by numbers or letters enclosed in brackets.

(1) Insert the name, full address and description of each person who joins in the declaration.

(2) Where it is claimed that the deceased was domiciled outside the States of India except Jammu and Kashmir at the time of his death, insert the name of the country or the State in which he is considered to have been domiciled. The circumstances relied upon to establish such domicile should be set out in a statement attached to the declaration. The domicile of origin should always be given.

(3) Where the deceased died domiciled out of India, the Account No. 2 and Schedule No. 2 should not be filled in.

(4) Insert "no" if the fact is so, and strike out all words after "section 3".

(5) Insert "a" or "no" or add "s" to "power", as the fact may require, and if "no", strike out all remainder of paragraph after "property". The paragraph does not refer to the deceased's power in right of ownership to charge money on his own immovable property.

(6) Strike out paragraph if inappropriate.

(7) Where the consideration for the debt, either consisted of property derived from the deceased, or was given by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased, particulars should be furnished.

(8) A mortgage debt not created by the deceased himself but charged on immovable property which was acquired by the deceased subject to the mortgage is primarily payable out of such immovable property.

(9) If there is a right to reimbursement but it cannot be obtained, adapt the paragraph. A debt for payment of which the deceased was surety only must not be deducted, unless the amount guaranteed has ripened from a mere liability into a debt and is actually recoverable from his estate.

(10) Adapt as the circumstances require.

(11) Insert the name of each deponent.

(A) Where securities have been valued according to the official list of a recognized stock exchange, a copy of that list should be attached, but where there is no official market quotation the estimate of principal value should be supported by other published quotations or brokers' certificates, or letters from the secretaries of the companies.

Any such certificate or letter should show either the date, price and amount of recent sales in the open market, or particulars of the last three years' dividends. No apportionment of the dividend is necessary; where they are "ex-dividend", the valuation.

If there have been no such recent sales, the date, price and amount of the last sale in the open market should be given.

If any bonus has been distributed, the fact should also be stated.

(B) Where the securities are "cum dividend" on the day of the deceased's death, no apportionment of the dividend is necessary; where they are "ex-dividend", the whole of the dividend valued as on that day should be included.

(C) The name or names of the banks should be stated.

(D) If the interest or power was derived under a will or intestacy, state name and date of death of the testator or intestate, but, if under a deed, state the date, together with names and addresses of the trustees, and if the deed has been already produced give the official reference appearing upon it.

(E) A valuation should normally be annexed: details and individual values of items valued at Rs. 500 and upwards should be given.

(F) A valuation must be annexed.

(G) These words to be struck out where the amount is actually ascertained.

(H) No mortgage debt created by the deceased himself is to be deducted unless such debt was created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit.

(J) Particulars should be stated of all interests in expectancy and movable property whether vested or contingent.

(K) Particulars should be stated of all interests in expectancy in immovable property.

(L) A State ment of any debts payable by law out of the property in Account No. 1, but which cannot be deducted for the purpose of estate duty, should be annexed to the Schedule, for information.

Where a debt is claimed to be due to the husband or wife, or any other member of the deceased's family a full explanation should be given, and evidence of the debt should be annexed.

A mortgage debt not created by the deceased himself but charged on immovable property which was acquired by the deceased subject to the mortgage is primarily payable out of such immovable property and must not be deducted against the movable property.

Where the debt is for "money lent" or "over draft" to a bank the date of the loan and particulars of the security if any, given, or if none, the facts relied on as showing that the debt is legally recoverable should be stated.

(M) Deduction may be here claimed (a) of any duty payable in any foreign country by reason of the deceased's death in respect of property situate in that foreign country and included in the Account No. 2, and (b) of an amount not exceeding 5 per cent. of the value of any property in the Account No. 2 representing additional expense incurred in administering or realising such property by reason of its being situate out of the States of India except Jammu and Kashmir; see also note (L) above.

(N) Under section 34 of the Act the following properties are not to be included in the principal value of the estate:

- (1) Property in which the deceased had never any interest.
- (2) Household goods, including tools of artisans, agricultural implements or any other tools or implements as were necessary to the deceased to enable him to earn his livelihood, to the extent of rupees two thousand and five hundred in value.
- (3) Books not intended for sale.
- (4) Wearing apparel, but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel.
- (5) Drawings, paintings, prints, manuscripts, works of art or archaeological or scientific collections which are of national, scientific or historical interest and which are retained in the family of the deceased and dealt with or disposed of in accordance with such conditions as the Board may prescribe, or which are given absolutely or bequeathed to Government or to any University or other public institution.
- (6) Drawings, paintings, photographs, prints, manuscripts and any other heir-loom, not falling within Item (5) above, which are retained in the family of the deceased and are dealt with or disposed of in accordance with such conditions as the Board may prescribe and are not intended for sale.

The following kinds of property are to be included in the principal value of the estate for the purpose of rate but under section 33 of the Act no duty shall be payable in respect of such properties to the extent specified against each of them:—

- (a) Gifts for public charitable purpose made within six months of death to the extent of Rs. 2,500.
- (b) Gifts, for any other purpose within 2 years of death, to the extent of Rs. 1,500.
- (c) Proceeds of insurance policy for the purpose of paying estate duty and assigned to the Government to the extent of duty payable but not exceeding Rs. 50,000.
- (d) Moneys deposited with the Government for the purpose of paying estate duty to the extent of duty payable but not exceeding Rs. 50,000.

- (e) Insurance proceeds on the life of the deceased to the extent of Rs. 5,000.
- (f) Moneys earmarked under a policy of insurance or under a declaration of trusts or settlement for the marriage of any of the female relative dependent on the deceased for necessities of life to the extent of Rs. 5,000, for each of such relatives.

If exemption is claimed on any of these items a separate list of such items with full details should be attached

E.D.-2.

ESTATE DUTY

GOVERNMENT OF INDIA

In the Office of the Controller of Estate Duty.

Circle....., the 19 .

APPLICATION UNDER THE PROVISIONS OF SUB-SECTION (5) OF SECTION 67.

(See rule 28)

In the ESTATE of..... Official Reference
No. E.D./File.....19 .

Application is hereby made to the Controller of Estate Duty to determine the estate duty payable in respect of the property described hereinafter for which I am (we are) accountable as passing on the death of..... late of..... who died on the..... day of.....19 .

The Property hereinbefore referred to—

2. I (We) hereby attach and deliver in Form E.D.-1 a full statement to the best of my (our) knowledge and belief of all property passing on the death of the aforesaid.....

3. The persons entitled on the death of the deceased to the property described in paragraph 1 of this application are as follows:—

1.

2.

4. The persons entitled on the death of the deceased to the other property specified and described in the statement attached are as follows:—

5. I (We) confirm all the particulars which have already been stated by me (us) or on my (our) behalf, and declare that to the best of my (our) knowledge and belief there are no further particulars, which ought to be disclosed.

Signature of applicant(s)..... Date 19 .

E.D.-3

ESTATE DUTY

GOVERNMENT OF INDIA

Controller of Estate Duty, Circle No.....

The.....19

CERTIFICATE UNDER SECTION 60

(See rule 28)

In the ESTATE of..... Official Reference
No. E.D./File.....19 .

It is hereby certified that the full estate duty has been paid or will be paid or that none is due in respect of the property hereinafter described as passing on the death of..... late of..... who died on the..... day of.....19 .

The property was accounted for in the Account(s) No.(s).....annexed to the Estate Duty Account, dated.....19 , which was delivered with reference to the death of the deceased.

The property hereinbefore referred to.

Seal of Controller of
Estate Duty

Controller of Estate Duty.

E.D.-4

ESTATE DUTY

GOVERNMENT OF INDIA

Controller of Estate Duty, Circle No.....

The.....19

CERTIFICATE UNDER SECTION 67 OR 69

(See rule 28)

In the ESTATE of..... Official Reference
 No. E.D./File.....19 .

It is hereby certified that the full estate duty has been paid in respect of the
 property hereinafter described as passing on the death of.....
 late of who died
 on the day of..... 19

The property hereinbefore referred to,

Seal of Office.

Controller of Estate Duty,
 Secretary, Central Board of Revenue.

[No. 3-E.D.]

R. K. DAS,
 Secretary, Central Board of Revenue.

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

ESTATE DUTY

New Delhi, the 15th October, 1953

S.R.O. 1938.—In exercise of the powers conferred by sub-section (2) of section
 4 of the Estate Duty Act, 1953, (XXXIV of 1953), the Central Government hereby
 appoints every Commissioner of Income-tax, every Inspecting Assistant Commis-
 sioner of Income-tax and every Income-tax Officer for the time being functioning
 as such to be respectively a Controller of Estate Duty, a Deputy Controller of
 Estate Duty and an Assistant Controller of Estate Duty.

[No. 4-E.D.]

R. K. DAS, Dy. Secy.

